

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

INOVIS USA, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 07-459 (GMS)
	)	
DISTANCE DIGITAL CO., LLC and	)	
CLASSIFIED INFORMATION, INC.,	)	
	)	
Defendants.	)	

**REVISED SCHEDULING ORDER**

This \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_, the Court having conducted a Rule 16 Scheduling Conference pursuant to Local Rule 16.2(b) on October 29, 2007, and the parties having determined after discussion that the matter cannot be resolved at this juncture by settlement, voluntary mediation or binding arbitration;

IT IS ORDERED that:

1. **Rule 26(a) Initial Disclosures.** Unless otherwise agreed to by the parties, they shall make their initial disclosures pursuant to Federal Rule of Civil Procedure 26(a) on or before November 16, 2007.
2. **Joinder of other Parties and Amendment of Pleadings.** All motions to join other parties and amend the pleadings shall be filed on or before February 23, 2008.
3. **Reliance Upon Advice of Counsel.** Should the issue of willful infringement be raised, plaintiff shall inform defendants whether it intends to rely upon advice of counsel as a defense to willful infringement no later than March 26, 2008. If plaintiff elects to rely on advice of counsel as a defense to willful infringement, plaintiff shall produce any such opinions on which it intends to rely to defendants no later than March 28, 2008.

4. **Markman Claim Construction Hearing.** A *Markman* claim construction hearing shall be held on September 25, 2008 at 9:30 a.m. The *Markman* hearing is scheduled for a total of six hours with each side having three hours. The parties shall meet and confer regarding narrowing and reducing the number of claim construction issues. On or before April 14, 2008, the parties shall submit a Final Joint Claim Chart which shall include citations to intrinsic evidence. The plaintiff shall submit to the court, a Joint Appendix of Intrinsic and Extrinsic Evidence (the “Joint Appendix”) containing all intrinsic and extrinsic evidence relied upon in the claim construction briefing. A sample table of contents of the Joint Appendix can be located on this court’s website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). The Joint Appendix shall be filed on the same day as the answering claim construction briefs. The parties shall file opening claim construction briefs on July 29, 2008, and answering claim construction briefs on August 26, 2008.

5. **Discovery.** Discovery limited to the subject matter jurisdiction issues raised by defendant Classified Information Inc.’s motion to dismiss shall be initiated so that it will be completed before December 21, 2007. Discovery against defendant Distance Digital Co., LLC shall be further limited to the issue of what interest, if any, it has in the patent-in-suit. Plaintiff shall file its supplemental brief in opposition to the motion to dismiss, limited to five pages, by December 21, 2007. Defendant Classified Information, Inc. shall file its supplemental brief in support of its motion to dismiss, limited to five pages, by December 21, 2007.

All fact discovery in this case shall be initiated so that it will be completed on or before November 7, 2008. Opening expert reports on issues on which a party bears the burden of proof shall be served on or before November 18, 2008. Rebuttal expert reports shall be served on or

before December 16, 2008. Expert Discovery in this case shall be initiated so that it will be completed on or before January 9, 2009.

a. **Discovery and Scheduling Matters:** Should counsel find they are unable to resolve a discovery or scheduling matter, the party seeking the relief shall contact chambers at (302) 573-6470 to schedule a telephone conference. Not less than forty-eight hours prior to the teleconference, the parties shall file with the court, via electronic means (CM/ECF), a **joint, non-argumentative** letter agenda not to exceed two (2) pages outlining the issue(s) in dispute. A sample letter can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). After the parties have had three (3) discovery teleconferences, they will be required to file a joint letter showing good cause why the court should permit a fourth discovery teleconference. Should the court find further briefing necessary upon conclusion of the telephone conference, unless otherwise directed, the party seeking relief shall file with the court a **TWO PAGE LETTER**, exclusive of exhibits, describing the issues in contention. The responding party shall file within five (5) days from the date of service of the opening letter an answering letter of no more than **TWO PAGES**. The party seeking relief may then file a reply letter of no more than **TWO PAGES** within three (3) days from the date of service of the answering letter.

6. **Confidential Information and Papers filed under Seal.** Should counsel find it will be necessary to apply to the court for a protective order specifying terms and conditions for the disclosure of confidential information, they should confer and attempt to reach an agreement on a proposed form of order and submit it to the court within ten (10) days from the date of this order. When filing papers under seal, counsel should deliver to the Clerk an original and two copies of the papers.

If after making a diligent effort the parties are unable to agree on the contents of the joint proposed protective order, then they shall follow the dispute resolution process outlined in paragraph 5(a).

7. **Settlement Conference.** Pursuant to 28 U.S.C. §636, this matter is referred to the United States Magistrate for the purpose of exploring the possibility of a settlement.

8. **Summary Judgment / Dispositive Motions.** The parties may not file any motions under Rule 56 of the Federal Rules of Civil Procedure or any additional motions, beyond those already filed, under Rule 12 of the Federal Rules of Civil Procedure.

9. **Applications by Motion.** Except as provided in this Scheduling Order or for matters relating to scheduling, any application to the Court shall be by written motion filed, via electronic means (CM/ECF). Unless otherwise requested by the Court, counsel shall **not** deliver copies of papers or correspondence to Chambers. Any non-dispositive motion should contain the statement required by Local Rule 7.1.1.

10. **Oral Argument.** If the Court believes that oral argument is necessary, the Court will schedule a hearing Pursuant to District of Delaware Local Rule 7.1.4.

11. **Daubert Issues.** The Court will address Daubert issues at the Pretrial Conference.

13. **Pretrial Conference.** On February 24, 2009, beginning at 9:30 a.m., the Court will hold a Pretrial Conference in Chambers with counsel. Unless otherwise ordered by the Court, the parties should assume that filing the Joint Pretrial Order satisfies the pretrial disclosure requirement in Federal Rule of Civil Procedure 26(a)(3). A sample form of Pretrial Order can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov). Thirty (30) days before the Joint Proposed Pretrial Order is due, plaintiff's counsel shall forward to defendants' counsel a draft of the pretrial order containing the information plaintiff proposes to include in the draft.

Defendants' counsel shall, in turn, provide to plaintiff's counsel any comments on the plaintiff's draft as well as the information defendants propose to include in the proposed pretrial order.

**Motions in limine:** No party shall file more than five (5) motions *in limine*. Opening briefs on all motions *in limine* shall be filed by January 12, 2009; answering briefs by January 19, 2009, and reply briefs by January 26, 2009. Opening and answering briefs shall not exceed five (5) pages and reply briefs shall not exceed three (3) pages. The parties shall file with the court the **joint** proposed final pretrial order with the information required by the form of Final Pretrial Order which can be located on this court's website at [www.ded.uscourts.gov](http://www.ded.uscourts.gov) on or before January 26, 2009.

**14. Trial.** This matter is scheduled for a seven day (jury or bench) jury trial beginning at 9:30 a.m. on March 23, 2009.

**15. Scheduling:** The parties shall contact chambers, at (302) 573-6470, only in situations where scheduling relief is sought, and only then when ALL participating counsel is on the line for purposes of selecting a new date.

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UNITED STATES DISTRICT JUDGE

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May 16, 2008

Via CM / ECF

Honorable Gregory M. Sleet  
Chief Judge  
United States District Court  
844 King Street  
Wilmington, DE 19801

Re: Inovis USA, Inc. v. Classified Information, Inc.  
Civil Action No. 07-459 GMS

Dear Judge Sleet:

Following up on counsel's call with Chambers on Friday last week, May 9, I am transmitting for the Court's consideration an agreed-upon revision to the current scheduling order. The parties request that the Court approve the order and have it entered on the docket. If the Court has any questions, we are available at the Court's convenience.

Respectfully,

*/s/ M. Duncan Grant*

M. Duncan Grant  
Del. Bar. No. 2994

Enclosure

cc: Julia Heaney, Esq. (w/enc.)

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